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NOT FOR PUBLICATION

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**IN THE UNITED STATES DISTRICT COURT**

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**FOR THE DISTRICT OF ARIZONA**

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9 Jamar Johnson,

No. CV-16-04410-PHX-JJT

10 Plaintiff,

**ORDER**

11 v.

12 Bank of America NA,

13 Defendant.

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15 The Court has reviewed the parties' Joint Motion for Approval of Settlement  
16 (Doc. 20). Finding that the settlement to which the parties have agreed represents a fair  
17 and reasonable resolution of a *bona fide* dispute within the meaning of the Fair Labor  
18 Standards Act, 29 U.S.C. § 201 *et seq.*, the Court will grant the Motion (Doc. 20) and  
19 approve the settlement agreement. The Court also has reviewed the parties' Joint Motion  
20 for Leave to File Confidential Settlement Agreement Under Seal in Support of Joint  
21 Motion for Approval of Settlement (Doc. 19). Upon consideration of the relevant  
22 controlling authority, the Court will grant in part and deny in part that Motion (Doc. 19).

23 *Kamakana v. City of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) provides that  
24 a party ordinarily must show compelling reasons to keep a court document under seal.  
25 This is because "the courts of this country recognize a general right to inspect and copy  
26 public records and documents, including judicial records and documents." *Nixon v.*  
27 *Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978).

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1           The presumption of access is based on the need for federal courts to have a  
2 measure of accountability and, importantly, for the public to have confidence in the  
3 administration of justice. *See Valley Broad Co. v. U.S. Dist. Court\_\_D. Nev.*, 798 F.2d  
4 1289, 1294 (9th Cir. 1986) (the presumption of public access “promotes the public’s  
5 understanding of the judicial process and of significant public events.”). The above point  
6 is particularly meaningful in a case like this one. The parties place the settlement  
7 agreement before the Court because they must; the FLSA requires the Court to determine  
8 whether the agreement is fair and reasonable.

9           As the parties point out, the standard of showing may be reduced from  
10 “compelling reasons” to “good cause” in certain circumstances for previously sealed  
11 materials attached to discovery motions. *Foltz v. State Farm Mut. Auto Ins.*, 331 F.3d  
12 1122, 1135 (9th Cir. 2003). The Ninth Circuit clarified the ambit of the good cause  
13 standard in *Center for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092 (9th Cir. 2015).  
14 *Chrysler* made clear that where the material is attached to a motion that is “more than  
15 tangentially related to the merits of a case,” the compelling reasons standard shall  
16 continue to apply.<sup>1</sup> 809 F.3d at 1101. Where only tangentially related, the material may  
17 be sealed with a showing of good cause. *Id.*

18           In the present case, the material the parties seek to seal in whole appears in a  
19 settlement agreement that the Court must by law review and approve. It is hard to  
20 imagine a document more core to the disposition of this matter. If upon review, the Court  
21 rejects the settlement agreement, the matter continues; if it approves the agreement, the  
22 matter will be disposed. In other words, the settlement agreement, in the context of an  
23 FLSA matter, is anything but tangentially related. A showing of compelling reasons to  
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26           <sup>1</sup> The parties argue that the good cause standard applies “because the parties have  
27 not filed a dispositive motion.” (Doc. 19 p. 3.) This is precisely the basis for the district  
28 court’s sealing of the challenged materials in *Chrysler*—and the argument the Ninth  
Circuit rejected in reversing the lower court’s decision. The Court made clear that the test  
was not whether the motion to which the materials at issue are attached is dispositive, but  
whether the motion is more than tangential to the merits of the case or not.

1 seal the entire document is thus required, and the Court finds that no such showing has  
2 been made.

3 An in-circuit case the parties cite in their Motion makes this clear. The court in  
4 *Hummel v. Bimbo Bakeries*, 2015 U.S. Dist. LEXIS 126077, \*7-8 (N.D. Cal. Sept. 21,  
5 2015), rejected the defendant’s unopposed motion to file the entire settlement agreement  
6 in an FLSA matter under seal under circumstance very similar to this case, and in the face  
7 of arguments indistinguishable from those the parties make here. After noting that the  
8 legal requirement for a court to determine the fairness and reason of settlement  
9 agreements in FLSA cases takes such cases outside the general class of cases where  
10 settlement agreements ordinarily remain confidential, the court in *Hummel* noted the  
11 public’s “independent interest in assuring that employees’ wages are fair, and thus do not  
12 endanger the national health and well-being.” *Id.* (citing *Joo v. Kitchen Table, Inc.*,  
13 763 F. Supp. 2d 643, 645 (S.D.N.Y. 2011)).

14 The court in *Hummel* rejected the defendant’s argument that the parties’ interest in  
15 confidentiality alone or the defendant’s desire to avoid “copycat” litigation by other  
16 employee-plaintiffs constituted a compelling reason to file the agreement under seal in  
17 light of the public interests at stake in FLSA actions. *Id.*; *see also Foltz*, 331 F.3d at 1137  
18 (holding that exposure to liability in other actions is not a compelling reason outweighing  
19 the presumption of public access). While *Hummel* is not controlling, the Court here finds  
20 its reasoning persuasive.

21 The Court therefore will deny the parties’ motion insofar as it seeks to seal the  
22 entire settlement agreement. As the court found in *Hummel*, however, the Court here  
23 finds that the parties have satisfied the compelling interest test to justify the sealing of the  
24 settlement amounts themselves, as the Court recognizes the public interest in not  
25 discouraging settlements. This is particularly true, as here, in the context of an individual  
26 settlement. For the above reasons,

27 IT IS ORDERED granting in part and denying in part the parties’ Joint Motion for  
28 Leave to File Confidential Settlement Agreement Under Seal in Support of Joint Motion

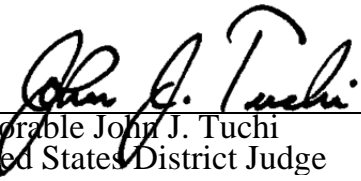
1 for Approval of Settlement (Doc. 19). No later than June 6, 2017, the parties shall jointly  
2 file a copy of the settlement agreement on the docket redacting all references to the  
3 settlement amount or components thereof in Sections 2, 2a and 2b of the agreement. The  
4 Clerk shall file under seal the unredacted version of the agreement currently lodged under  
5 seal at Document 21.

6 IT IS FURTHER ORDERED granting the parties' Joint Motion for Approval of  
7 Settlement in this matter (Doc. 20).

8 IT IS FURTHER ORDERED dismissing with prejudice this action and directing  
9 the Clerk of Court to close the matter.

10 Dated this 30th day of May, 2017.

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Honorable John J. Tuchi  
United States District Judge